

AMENDED IN SENATE JUNE 21, 1963
AMENDED IN SENATE MAY 15, 1963
AMENDED IN ASSEMBLY APRIL 23, 1963
AMENDED IN ASSEMBLY APRIL 2, 1963

CALIFORNIA LEGISLATURE, 1963 REGULAR (GENERAL) SESSION

ASSEMBLY BILL

No. 1240

Introduced by Messrs. Rumford, Dymally, Ferrell, Knox, Alquist,
Burton, Casey, Crown, Elliott, Foran, Gaffney, Kennick, McMillan,
Mills, Moreno, Petris, Song, Soto, Stanton, Warren, and Zenovich

February 14, 1963

REFERRED TO COMMITTEE ON GOVERNMENTAL EFFICIENCY AND ECONOMY

*An act to repeal Part 5 (commencing with Section 35700) of
Division 24 of, and to add Part 5 (commencing with Section
35700) to Division 24 of, the Health and Safety Code, and to
add Section 1419.5 to, AND TO AMEND SECTION 1414
OF, the Labor Code, relating to discrimination in housing.*

The people of the State of California do enact as follows:

- 1 SECTION 1. Part 5 (commencing with Section 35700) of
2 Division 24 of the Health and Safety Code is repealed.
3 SEC. 2. Part 5 (commencing with Section 35700) is added
4 to Division 24 of the Health and Safety Code, to read:

5
6 PART 5. DISCRIMINATION IN HOUSING

7
8 CHAPTER 1. FINDINGS AND DECLARATION OF POLICY

9
10 35700. The practice of discrimination because of race, color,
11 religion, national origin, or ancestry in any housing accommo-
12 dations is declared to be against public policy.

13 In enacting this part, the Legislature finds that, because of
14 discrimination in housing, many persons in this State live in
15 segregated sections under substandard, unhealthful, unsani-
16 tary, and crowded conditions; that these conditions have
17 caused increased rates of crime, disease, fire, and juvenile
18 delinquency in certain sections of this State; and that dis-
19 crimination in housing necessarily results in other kinds of

1 discrimination, such as discrimination in public schools; and
2 that, for these reasons and others, discrimination in housing is
3 incompatible with, and contrary to, the welfare, health, and
4 peace of the people of this State.

5 This part shall be deemed an exercise of the police power of
6 the State for the protection of the welfare, health, and peace
7 of the people of this State.

8
9 CHAPTER 2. DEFINITIONS

10 35710. When used in this part:

11 1. The term "person" includes one or more individuals,
12 partnerships, associations, corporations, legal representatives,
13 trustees, trustees in bankruptcy and receivers or other fiduci-
14 aries.

15 2. The term "housing accommodation" includes any im-
16 proved or unimproved real property, or portion thereof, which
17 is used or occupied, or is intended, arranged or designed to be
18 used or occupied, as the home, residence or sleeping place of
19 one or more human beings, but shall not include any accommo-
20 dations operated by a religious, fraternal, or charitable asso-
21 ciation or corporation not organized or operated for private
22 profit; provided, that such accommodations are being used in
23 furtherance of the primary purpose or purposes for which the
24 association or corporation was formed.

25 3. The term "publicly assisted housing accommodation" in-
26 cludes any housing accommodation which is (a) built with
27 public funds or assistance; or (b) totally or partially exempt
28 from federal, state, or local taxes; or (c) financed in whole or
29 in part by a loan, repayment of which is guaranteed or insured
30 by the federal, state, or any local government or any agency
31 thereof. However, a housing accommodation shall not be
32 deemed to be a "publicly assisted housing accommodation"
33 solely because the owner thereof enjoys any type of tax exemp-
34 tion by virtue of his veteran status. This subdivision is not in-
35 tended as an exclusive definition of the term "publicly assisted
36 housing accommodation".

37 3. The term "publicly assisted housing accommodation"
38 includes any housing accommodation within the State:

39 (a) Which at the time of any alleged unlawful discrimina-
40 tion under Section 35720 is granted exemption in whole or in
41 part from taxes levied by the State or any of its political sub-
42 divisions; provided, that nothing herein contained shall apply
43 to any housing accommodations solely because the owner
44 thereof enjoys any type of tax exemption by virtue of his vet-
45 eran status.

46 (b) Which is constructed on land sold below cost by the
47 State or any of its political subdivisions or any agency thereof,
48 pursuant to the Federal Housing Act of 1949.

49 (c) Which is constructed in whole or in part on property
50 acquired or assembled by the State or any of its political sub-
51 divisions or any agency thereof through the power of con-
52

1 demnation or otherwise for the purpose of such construction.

2 (d) The acquisition or construction of which is, at the time
3 of any alleged unlawful discrimination under Section 35720,
4 financed in whole or in part by a loan, whether or not secured
5 by a mortgage, the repayment of which is guaranteed or in-
6 sured by the federal government or any agency thereof, or the
7 State or any of its political subdivisions or any agency thereof.

8 4. The term "owner" includes the lessee, sublessee, assignee,
9 trustee, trustor, beneficiary, mortgagee, mortgagor managing
10 agent, real estate broker or salesman, or any person having
11 any legal or equitable right of ownership or possession or the
12 right to rent or lease housing accommodations, and includes
13 the State and any of its political subdivisions and any agency
14 thereof.

15 5. The term "discriminate" includes to segregate or sepa-
16 rate.

17 6. The term "multiple dwelling" means a dwelling which
18 is occupied, as a rule, for permanent residence purposes and
19 which is either rented, leased, let or hired out, to be occupied
20 as the residence or home of three or more families living inde-
21 pendently of each other. A "multiple dwelling" shall not be
22 deemed to include a hospital, convent, monastery, public insti-
23 tution, or a building used wholly for commercial purposes
24 except for not more than one janitor's apartment and not more
25 than one housing accommodation occupied by not more than
26 two families. The term "family" means either a person occu-
27 pying a dwelling and maintaining a household, with not more
28 than four boarders, roomers or lodgers, or two or more persons
29 occupying a dwelling, living together and maintaining a com-
30 mon household, with not more than four boarders, roomers or
31 lodgers. A "boarder," "roomer" or "lodger" residing with
32 a family means a person living within the household who pays
33 a consideration for such residence and does not occupy such
34 space within the household as an incident of employment
35 therein.

37 CHAPTER 3. DISCRIMINATION PROHIBITED

38
39 35720. It shall be unlawful:

40 1. For the owner of any housing accommodation, other than
41 a dwelling containing not more than four units which is occu-
42 pied in whole or in part by the said owner as his residence, to:

43 (a) Refuse to sell, rent or lease or otherwise to deny to or
44 withhold from any person or group of persons such housing
45 accommodation because of the race, color, religion, national
46 origin or ancestry of such person or persons.

47 (b) Discriminate against any person because of the race,
48 color, religion, national origin or ancestry of such person in
49 the terms, conditions or privileges of any such housing accom-
50 modations or in the furnishing of facilities or services in con-
51 nection therewith.

1 (c) Make or to cause to be made any written or oral inquiry
2 concerning the race, color, religion, national origin or ancestry
3 of a person seeking to purchase, rent or lease any such housing
4 accommodation for the purpose of violating any of the provi-
5 sions of this section.

6 2. For the owner of any housing accommodation to refuse
7 to sell to any person or group of persons such housing accom-
8 modation because of the race, color, religion, national origin
9 or ancestry of such person or persons.

10 3. For the owner of any publicly assisted housing accommo-
11 dation, with knowledge of such assistance, to commit any of
12 the acts prohibited by subdivisions (a), (b), and (c) of sub-
13 division 1 and by subdivision 2.

14 1. For the owner of any publicly assisted housing accom-
15 modation which is in, or to be used for, a multiple dwelling,
16 with knowledge of such assistance, to refuse to sell, rent or
17 lease or otherwise to deny to or withhold from any person or
18 group of persons such housing accommodation because of the
19 race, color, religion, national origin, or ancestry of such per-
20 son or persons.

21 2. For the owner of any publicly assisted housing accom-
22 modation which is in, or to be used for, a multiple dwelling,
23 with knowledge of such assistance, to discriminate against any
24 person because of the race, color, religion, national origin or
25 ancestry of such person in the terms, conditions or privileges
26 of any publicly assisted housing accommodations or in the
27 furnishing of facilities or services in connection therewith.

28 3. For any owner of any publicly assisted housing accom-
29 modation which is in, or to be used for, a multiple dwelling,
30 with knowledge of such assistance, to make or to cause to be
31 made any written or oral inquiry concerning the race, color,
32 religion, national origin or ancestry of a person seeking to
33 purchase, rent or lease any publicly assisted housing accom-
34 modation for the purpose of violating any of the provisions
35 of this part.

36 4. For the owner of any publicly assisted housing accom-
37 modation which is a single family dwelling occupied by the
38 owner, with knowledge of such assistance, to commit any of
39 the acts prohibited by subdivisions 1, 2, and 3.

40 5. For the owner of any dwelling, other than a dwelling
41 containing not more than four units, to commit any of the
42 acts prohibited by subdivisions 1, 2, and 3.

43 6. For any person subject to the provisions of Section 51 of
44 the Civil Code, as that section applies to housing accommoda-
45 tions, as defined in this part, and to transactions relating to
46 sales, rentals, leases, or acquisition of housing accommoda-
47 tions, as defined in this part, to discriminate against any per-
48 son because of race, color, religion, national origin, or an-
49 cestry with reference thereto.

1 ~~4~~
2 7. For any person, bank, mortgage company or other fi-
3 nancial institution to whom application is made for financial
4 assistance for the purchase, organization, construction, reha-
5 bilitation, repair or maintenance of any housing accommoda-
6 tion, to make or cause to be made any written or oral inquiry
7 concerning the race, color, religion, national origin or ancestry
8 of a person or group of persons seeking such financial assist-
9 ance, or concerning the race, color, religion, national origin or
10 ancestry of prospective occupants or tenants of such housing
11 accommodation, or assistance for the purchase, organization, or
12 construction of any housing accommodation to discriminate
13 against any person or group of persons because of the race,
14 color, religion, national origin or ancestry of such person or
15 persons, or of prospective occupants or tenants, in the terms,
16 conditions or privileges relating to the obtaining or use of any
17 such financial assistance.

18 ~~5~~
19 8. For any person to aid, abet, incite, compel or coerce the
20 doing of any of the acts or practices declared unlawful in this
21 section, or to attempt to do so.

22 CHAPTER 4. ENFORCEMENT

23
24 35730. The State Fair Employment Practice Commission
25 created by Section 1414 of the Labor Code is empowered to
26 prevent violations of Section 35720. When it shall appear to it
27 that such a violation may have been committed, the chairman
28 of the commission shall designate one of the commissioners to
29 make, with the assistance of the commission's staff, prompt
30 investigation in connection therewith. If such commissioner
31 determines after such investigation that further action is war-
32 ranted, he shall immediately endeavor to eliminate the viola-
33 tion complained of by conference, conciliation and persuasion.
34 The member of the commission and its staff shall not disclose
35 what has transpired in the course of such endeavors.

36 Every member of the commission or its staff who discloses
37 information in violation of the requirements of this section is
38 guilty of a misdemeanor. Such disclosure by an employee sub-
39 ject to civil service shall be cause for disciplinary action under
40 the State Civil Service Act.

41 prevent violations of Section 35720, after a verified complaint
42 has been filed with the commission pursuant to Section 35731.

43 35730.5. The commission, in connection with its functions
44 under this part, shall have the following powers and duties:

- 45 (a) To meet and function at any place within the State.
- 46 (b) To appoint an attorney, and such clerks and other em-
47 ployees as it may deem necessary, fix their compensation within
48 the limitations provided by law, and prescribe their duties.
- 49 (c) To obtain upon request and utilize the services of all
50 governmental departments and agencies.
- 51

1 (d) To adopt, promulgate, amend, and rescind suitable rules
2 and regulations to carry out the provisions of this part.

3 (e) To receive, investigate and pass upon verified complaints
4 alleging discrimination in housing accommodations, as defined
5 in this part, because of race, religious creed, color, national
6 origin or ancestry.

7 (f) To hold hearings, subpoena witnesses, compel their at-
8 tendance, administer oaths, examine any person under oath
9 and, in connection therewith, to require the production of any
10 books or papers at such hearings relating to any matter under
11 investigation or in question before the commission.

12 (g) To create such advisory agencies and conciliation coun-
13 cils, local or otherwise, as in its judgment will aid in effectuat-
14 ing the purposes of this part, and may empower them to study
15 the problems of discrimination in all or specific fields of human
16 relationships or in specific instances of discrimination because
17 of race, religious creed, color, national origin, or ancestry, and
18 to foster, through community effort or otherwise, good will,
19 co-operation, and conciliation among the groups and elements
20 of the population of the State and to make recommendations
21 to the commission for the development of policies and pro-
22 cedures in general. Such advisory agencies and conciliation
23 councils shall be composed of representative citizens, serving
24 without pay.

25 (h) To issue such publications and such results of investi-
26 gations and research as in its judgment will tend to promote
27 good will and minimize or eliminate discrimination because of
28 race, religious creed, color, national origin, or ancestry.

29 (i) To render annually to the Governor and biennially to
30 the Legislature a written report of its activities and of its
31 recommendations.

32 35731. Any person claiming to be aggrieved by an alleged
33 violation of Section 35720 may file with the commission a
34 verified complaint in writing which shall state the name and
35 address of the person alleged to have committed the violation
36 complained of, and which shall set forth the particulars thereof
37 and contain such other information as may be required by the
38 commission. ~~The Attorney General may, in like manner, make~~
39 ~~sign, and file such complaint.~~ However, no such complaint may
40 be made or filed unless the person claiming to be aggrieved
41 waives any and all rights or claims that he may have under
42 ~~Sections 51 and Section 52~~ of the Civil Code and signs a writ-
43 ten waiver to that effect.

44 No complaint may be filed after the expiration of 60 days
45 from the date upon which the alleged violation occurred. This
46 period may be extended for not to exceed 60 days following
47 the expiration of the initial 60 days, if a person allegedly ag-
48 grieved by such violation first obtained knowledge of the facts
49 of such alleged violation after the expiration of the initial 60
50 days from date of its occurrence.

51 The State Fair Employment Practice Commission may there-
52 upon proceed upon such complaint in the same manner and

1 with the same powers as provided in Part 4.5 (commencing
2 with Section 1410) of Division 2 of the Labor Code in the
3 case of an unlawful employment practice, and the provisions
4 of that part *which are not inconsistent with this part* as to the
5 powers, duties and rights of the State Fair Employment Prac-
6 tice Commission, its chairman, members, attorneys or agents,
7 the complainant, the respondent, the Attorney General and the
8 superior court, shall apply to any proceeding under the pro-
9 visions of this section. *However, Section 1430 of the Labor*
10 *Code shall not apply to this part, and the Attorney General*
11 *may not make, sign, or file a complaint under this part.*

12 35732. (a) *If such verified complaint alleges facts, directly*
13 *or upon information and belief, sufficient to constitute a viola-*
14 *tion of any of the provisions of Section 35720, the chairman of*
15 *the commission shall designate one of the commissioners to*
16 *make, with the assistance of the commission's staff, prompt*
17 *investigation in connection therewith. If such commissioner*
18 *determines after preliminary investigation that probable cause*
19 *exists for believing the allegations of the complaint, he shall*
20 *immediately endeavor to eliminate the alleged unlawful prac-*
21 *tice by conference, conciliation, and persuasion.*

22 (b) *If, after the preliminary investigation, probable cause*
23 *does not exist for believing the allegations of the complaint, the*
24 *assigned commissioner shall dismiss the complaint. Notice of*
25 *dismissal shall be sent to the respondent and the complainant*
26 *by registered mail—return receipt requested and the com-*
27 *plainant then shall have 15 days from the receipt day to file an*
28 *appeal to the dismissal.*

29 *If the assigned commissioner fails to eliminate such alleged*
30 *unlawful practice and believes probable cause still exists, he*
31 *may issue and serve in the name of the commission, a written*
32 *accusation together with a copy of such complaint, as the same*
33 *may have been amended, requiring the owner named in such*
34 *accusation, hereinafter referred to as "respondent," to answer*
35 *the charges of such accusation at a hearing.*

36 *The written accusation, hearings, and all matters pertaining*
37 *thereto shall be in accordance with the Administrative Proce-*
38 *dure Act, Chapter 5 (commencing with Section 11500) of Part*
39 *1, Division 3, Title 2 of the Government Code, and the commis-*
40 *sion shall have all the powers granted therein.*

41 35733. *After a verified complaint has been filed with the*
42 *commission pursuant to Section 35731, and the preliminary*
43 *investigation thereof has been carried out, or a 20-day period*
44 *has elapsed from the filing of the verified complaint, if the*
45 *preliminary investigation has not then been completed, an*
46 *appropriate superior court may, upon the motion of the re-*
47 *spondent, order the commission to give to the respondent,*
48 *within a specified time, a copy of any book, document, or*
49 *paper, or any entries therein, in the possession or under the*
50 *control of the commission, containing evidence relating to*
51 *the merits of the verified complaint, or to a defense thereto.*
52 *The commission shall comply with such an order.*

1 35734. The commission, at any time after a complaint is
2 filed with it and it has been determined that probable cause
3 exists for believing that the allegations of the complaint are
4 true and constitute a violation of this part, may bring an
5 action in the superior court to enjoin the owner or lesser of
6 the property from taking further action with respect to the
7 rental, lease, or sale of the property until the commission has
8 completed its investigation and made its determination; but
9 a temporary restraining order obtained under this section shall
10 not, in any event, be in effect for more than 20 days. In such
11 action an order or judgment may be entered awarding such
12 temporary restraining order or such preliminary or final
13 injunction as may be proper, in accordance with Section 527
14 of the Code of Civil Procedure.

15 35735. All matters connected with any conference, concili-
16 ation, or persuasion efforts under this part are privileged and
17 may not be received in evidence. The members of the commis-
18 sion and its staff shall not disclose to any person what has
19 transpired in the course of such endeavors to conciliate. Every
20 member of the commission or its staff who discloses information
21 in violation of this section is guilty of a misdemeanor. Such
22 disclosure by an employee subject to civil service shall be cause
23 for disciplinary action under the State Civil Service Act.

24 35736. When an owner is contacted by the commission, a
25 commissioner, or a member of the commission's staff, he shall
26 be informed whether the contact is for the purpose of investi-
27 gation or conference, conciliation, or persuasion; and if it is
28 for conference, conciliation, or persuasion, he shall be in-
29 formed that all matters relating thereto are privileged.

30 35737. The commission shall without undue delay cause a
31 copy of the verified complaint that has been filed under the
32 provisions of this part to be served upon or mailed to the
33 owner alleged to have committed the violation complained of.

34 35738. If the commission finds that a respondent has en-
35 gaged in any unlawful practice as defined in this part, the
36 commission shall state its findings of fact and shall issue and
37 cause to be served on such respondent an order requiring such
38 respondent to cease and desist from such practice and to take
39 one of the following affirmative actions, as, in the judgment of
40 the commission, will effectuate the purpose of this part:

41 (1) The sale or rental of the housing accommodation to the
42 aggrieved person, if it is still available.

43 (2) The sale or rental of a like accommodation, if one is
44 available, or the next vacancy in a like accommodation.

45 (3) The payment of damages to the aggrieved person in an
46 amount not to exceed five hundred dollars (\$500), if the com-
47 mission determines that neither of the remedies under (1) or
48 (2) is available.

49 The commission may require a report of the manner of com-
50 pliance.

1 *If the commission finds that a respondent has not engaged*
2 *in any practice which constitutes a violation of this part, the*
3 *commission shall state its findings of fact and shall issue and*
4 *cause to be served on the complainant an order dismissing the*
5 *said accusation as to such respondent. A copy of its order shall*
6 *be delivered in all cases to the Attorney General and such*
7 *other public officers as the commission deems proper.*

8 *Any order issued by the commission shall have printed on*
9 *its face references to the provisions of the Administrative Pro-*
10 *cedure Act which prescribe the rights of appeal of any party*
11 *to the proceeding to whose position the order is adverse.*

12
13 CHAPTER 5. MISCELLANEOUS
14

15 35740. Nothing contained in this part shall be deemed to
16 repeal any of the provisions of any other law of this State
17 relating to discrimination because of race, color, religion,
18 national origin or ancestry.

19 35741. Nothing in this part shall be construed to affect the
20 title or other interest of a person who purchases, leases, or
21 takes an encumbrance on a housing accommodation in good
22 faith and without knowledge that the owner or lessor of the
23 property has violated any provision of this part.

24 35742. Nothing contained in this part shall be construed to
25 prohibit selection based upon factors other than race, color,
26 religion, national origin, or ancestry.

27 35743. If, after investigation following the filing of a com-
28 plaint, the commission determines that there is probable cause
29 to believe that a violation of Section 35720 has occurred or is
30 about to occur, the commission shall file with the county re-
31 corder of the county in which the property is located notice
32 that it has taken jurisdiction of the complaint relating to the
33 renting, leasing, or purchasing of such property. The recorded
34 notice shall be notice to all persons of the existence of such
35 complaint alleging a violation of Section 35720 in respect to the
36 property. If the complaint is dismissed or the proceeding be-
37 fore the commission is terminated in any way, the commission
38 shall file notice of that fact with the county recorder with
39 whom the original notice was filed.

40 35743. As it is the intention of the Legislature to occupy
41 the whole field of regulation encompassed by the provisions of
42 this part, the regulation by law of discrimination in housing
43 contained in this part shall be exclusive of all other laws ban-
44 ning discrimination in housing by any city, city and county,
45 county, or other political subdivision of the State. Nothing
46 contained in this part shall be construed to, in any manner or
47 way, limit or restrict the application of Section 51 of the
48 Civil Code.

49 35744. The provisions of this part shall be liberally con-
50 strued for the purpose of effectuating the public policy con-
51 tained herein.

1 *SEC. 3. Section 1414 of the Labor Code is amended to*
2 *read:*

3 1414. There is in the Division of Fair Employment Prac-
4 tices the State Fair Employment Practice Commission. Such
5 commission shall consist of ~~five~~ seven members, to be known as
6 commissioners, who shall be appointed by the Governor, by
7 and with the advice and consent of the Senate, and one of
8 whom shall be designated as chairman by the Governor. The
9 term of office of each member of the commission shall be for
10 four years; provided, however, that of the commissioners first
11 appointed two shall be appointed for a term of one year, one
12 for a term of two years, one for a term of three years, and
13 one for a term of four years. *The term of office of each member*
14 *of the commission appointed pursuant to the 1963 amend-*
15 *ments to this section shall also be for four years; provided,*
16 *however, that of the two commissioners first appointed pur-*
17 *suant to the said amendments, one shall be appointed for a*
18 *term which shall expire September 18, 1966, and one for a*
19 *term which shall expire September 18, 1967.*

20 ~~Sec. 3~~

21 *SEC. 4. Section 1419.5 is added to the Labor Code, to*
22 *read:*

23 1419.5. The commission is empowered to prevent discrimi-
24 nation in housing as provided in Part 5 (commencing with
25 Section 35700) of Division 24 of the Health and Safety Code.

26 ~~Sec. 4~~

27 *SEC. 5. If any provision of this act or the application*
28 *thereof to any person or circumstances is held invalid, such*
29 *invalidity shall not affect other provisions or applications of*
30 *the act which can be given effect without the invalid provision*
31 *or application, and to this end the provisions of this act are*
32 *severable.*

Assembly Bill No. 1240

CHAPTER 1853

An act to repeal Part 5 (commencing with Section 35700) of Division 24 of, and to add Part 5 (commencing with Section 35700) to Division 24 of, the Health and Safety Code, and to add Section 1419.5 to, and to amend Section 1414 of, the Labor Code, relating to discrimination in housing.

[Approved by Governor July 18, 1963. Filed with Secretary of State July 19, 1963.]

The people of the State of California do enact as follows:

SECTION 1. Part 5 (commencing with Section 35700) of Division 24 of the Health and Safety Code is repealed.

SEC. 2. Part 5 (commencing with Section 35700) is added to Division 24 of the Health and Safety Code, to read:

PART 5. DISCRIMINATION IN HOUSING

CHAPTER 1. FINDINGS AND DECLARATION OF POLICY

35700. The practice of discrimination because of race, color, religion, national origin, or ancestry in housing accommodations is declared to be against public policy.

This part shall be deemed an exercise of the police power of the State for the protection of the welfare, health, and peace of the people of this State.

CHAPTER 2. DEFINITIONS

35710. When used in this part:

1. The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy and receivers or other fiduciaries.

2. The term "housing accommodation" includes any improved or unimproved real property, or portion thereof, which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home, residence or sleeping place of one or more human beings, but shall not include any accommodations operated by a religious, fraternal, or charitable association or corporation not organized or operated for private profit; provided, that such accommodations are being used in furtherance of the primary purpose or purposes for which the association or corporation was formed.

(R) L-3520 1M

3. The term "publicly assisted housing accommodation" includes any housing accommodation within the State:

(a) Which at the time of any alleged unlawful discrimination under Section 35720 is granted exemption in whole or in part from taxes levied by the State or any of its political subdivisions; provided, that nothing herein contained shall apply to any housing accommodations solely because the owner thereof enjoys any type of tax exemption by virtue of his veteran status.

(b) Which is constructed on land sold below cost by the State or any of its political subdivisions or any agency thereof, pursuant to the Federal Housing Act of 1949.

(c) Which is constructed in whole or in part on property acquired or assembled by the State or any of its political subdivisions or any agency thereof through the power of condemnation or otherwise for the purpose of such construction.

(d) The acquisition or construction of which is, at the time of any alleged unlawful discrimination under Section 35720, financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the State or any of its political subdivisions or any agency thereof.

4. The term "owner" includes the lessee, sublessee, assignee, managing agent, real estate broker or salesman, or any person having any legal or equitable right of ownership or possession or the right to rent or lease housing accommodations, and includes the State and any of its political subdivisions and any agency thereof.

5. The term "discriminate" includes to segregate or separate.

6. The term "multiple dwelling" means a dwelling which is occupied, as a rule, for permanent residence purposes and which is either rented, leased, let or hired out, to be occupied as the residence or home of three or more families living independently of each other. A "multiple dwelling" shall not be deemed to include a hospital, convent, monastery, public institution, or a building used wholly for commercial purposes except for not more than one janitor's apartment and not more than one housing accommodation occupied by not more than two families. The term "family" means either a person occupying a dwelling and maintaining a household, with not more than four boarders, roomers or lodgers, or two or more persons occupying a dwelling, living together and maintaining a common household, with not more than four boarders, roomers or lodgers. A "boarder," "roomer" or "lodger" residing with a family means a person living within the household who pays a consideration for such residence and does not occupy such

space within the household as an incident of employment therein.

CHAPTER 3. DISCRIMINATION PROHIBITED

35720. It shall be unlawful:

1. For the owner of any publicly assisted housing accommodation which is in, or to be used for, a multiple dwelling, with knowledge of such assistance, to refuse to sell, rent or lease or otherwise to deny to or withhold from any person or group of persons such housing accommodation because of the race, color, religion, national origin, or ancestry of such person or persons.

2. For the owner of any publicly assisted housing accommodation which is in, or to be used for, a multiple dwelling, with knowledge of such assistance, to discriminate against any person because of the race, color, religion, national origin or ancestry of such person in the terms, conditions or privileges of any publicly assisted housing accommodations or in the furnishing of facilities or services in connection therewith.

3. For any owner of any publicly assisted housing accommodation which is in, or to be used for, a multiple dwelling, with knowledge of such assistance, to make or to cause to be made any written or oral inquiry concerning the race, color, religion, national origin or ancestry of a person seeking to purchase, rent or lease any publicly assisted housing accommodation for the purpose of violating any of the provisions of this part.

4. For the owner of any publicly assisted housing accommodation which is a single family dwelling occupied by the owner, with knowledge of such assistance, to commit any of the acts prohibited by subdivisions 1, 2, and 3.

5. For the owner of any dwelling, other than a dwelling containing not more than four units, to commit any of the acts prohibited by subdivisions 1, 2, and 3.

6. For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, as defined in this part, and to transactions relating to sales, rentals, leases, or acquisition of housing accommodations, as defined in this part, to discriminate against any person because of race, color, religion, national origin, or ancestry with reference thereto.

7. For any person, bank, mortgage company or other financial institution to whom application is made for financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, national origin or ancestry of such person or persons, or of prospective occupants or tenants, in the terms, conditions or

privileges relating to the obtaining or use of any such financial assistance.

8. For any person to aid, abet, incite, compel or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

CHAPTER 4. ENFORCEMENT

35730. The State Fair Employment Practice Commission created by Section 1414 of the Labor Code is empowered to prevent violations of Section 35720, after a verified complaint has been filed with the commission pursuant to Section 35731.

35730.5. The commission, in connection with its functions under this part, shall have the following powers and duties:

- (a) To meet and function at any place within the State.
- (b) To appoint an attorney, and such clerks and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.
- (c) To obtain upon request and utilize the services of all governmental departments and agencies.
- (d) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this part.
- (e) To receive, investigate and pass upon verified complaints alleging discrimination in housing accommodations, as defined in this part, because of race, religious creed, color, national origin or ancestry.
- (f) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath and, in connection therewith, to require the production of any books or papers at such hearings relating to any matter under investigation or in question before the commission.
- (g) To create such advisory agencies and conciliation councils, local or otherwise, as in its judgment will aid in effectuating the purposes of this part, and may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, religious creed, color, national origin, or ancestry, and to foster, through community effort or otherwise, good will, co-operation, and conciliation among the groups and elements of the population of the State and to make recommendations to the commission for the development of policies and procedures in general. Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay.
- (h) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, religious creed, color, national origin, or ancestry.

(i) To render annually to the Governor and biennially to the Legislature a written report of its activities and of its recommendations.

35731. Any person claiming to be aggrieved by an alleged violation of Section 35720 may file with the commission a verified complaint in writing which shall state the name and address of the person alleged to have committed the violation complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the commission. However, no such complaint may be made or filed unless the person claiming to be aggrieved waives any and all rights or claims that he may have under Section 52 of the Civil Code and signs a written waiver to that effect.

No complaint may be filed after the expiration of 60 days from the date upon which the alleged violation occurred. This period may be extended for not to exceed 60 days following the expiration of the initial 60 days, if a person allegedly aggrieved by such violation first obtained knowledge of the facts of such alleged violation after the expiration of the initial 60 days from date of its occurrence.

The State Fair Employment Practice Commission may thereupon proceed upon such complaint in the same manner and with the same powers as provided in Part 4.5 (commencing with Section 1410) of Division 2 of the Labor Code in the case of an unlawful employment practice, and the provisions of that part which are not inconsistent with this part as to the powers, duties and rights of the State Fair Employment Practice Commission, its chairman, members, attorneys or agents, the complainant, the respondent, the Attorney General and the superior court, shall apply to any proceeding under the provisions of this section. However, Section 1430 of the Labor Code shall not apply to this part, and the Attorney General may not make, sign, or file a complaint under this part.

35732. (a) If such verified complaint alleges facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of Section 35720, the chairman of the commission shall designate one of the commissioners to make, with the assistance of the commission's staff, prompt investigation in connection therewith. If such commissioner determines after preliminary investigation that probable cause exists for believing the allegations of the complaint, he shall immediately endeavor to eliminate the alleged unlawful practice by conference, conciliation, and persuasion.

(b) If, after the preliminary investigation, probable cause does not exist for believing the allegations of the complaint, the assigned commissioner shall dismiss the complaint. Notice of dismissal shall be sent to the respondent and the complainant by registered mail—return receipt requested and the com-

plainant then shall have 15 days from the receipt day to file an appeal to the dismissal.

If the assigned commissioner fails to eliminate such alleged unlawful practice and believes probable cause still exists, he may issue and serve in the name of the commission, a written accusation together with a copy of such complaint, as the same may have been amended, requiring the owner named in such accusation, hereinafter referred to as "respondent," to answer the charges of such accusation at a hearing.

The written accusation, hearings, and all matters pertaining thereto shall be in accordance with the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code, and the commission shall have all the powers granted therein.

35733. After a verified complaint has been filed with the commission pursuant to Section 35731, and the preliminary investigation thereof has been carried out, or a 20-day period has elapsed from the filing of the verified complaint, if the preliminary investigation has not then been completed, an appropriate superior court may, upon the motion of the respondent, order the commission to give to the respondent, within a specified time, a copy of any book, document, or paper, or any entries therein, in the possession or under the control of the commission, containing evidence relating to the merits of the verified complaint, or to a defense thereto. The commission shall comply with such an order.

35734. The commission, at any time after a complaint is filed with it and it has been determined that probable cause exists for believing that the allegations of the complaint are true and constitute a violation of this part, may bring an action in the superior court to enjoin the owner of the property from taking further action with respect to the rental, lease, or sale of the property until the commission has completed its investigation and made its determination; but a temporary restraining order obtained under this section shall not, in any event, be in effect for more than 20 days. In such action an order or judgment may be entered awarding such temporary restraining order or such preliminary or final injunction in accordance with Section 527 of the Code of Civil Procedure.

35735. All matters connected with any conference, conciliation, or persuasion efforts under this part are privileged and may not be received in evidence. The members of the commission and its staff shall not disclose to any person what has transpired in the course of such endeavors to conciliate. Every member of the commission or its staff who discloses information in violation of this section is guilty of a misdemeanor. Such

disclosure by an employee subject to civil service shall be cause for disciplinary action under the State Civil Service Act.

35736. When an owner is contacted by the commission, a commissioner, or a member of the commission's staff, he shall be informed whether the contact is for the purpose of investigation or conference, conciliation, or persuasion; and if it is for conference, conciliation, or persuasion, he shall be informed that all matters relating thereto are privileged.

35737. The commission shall without undue delay cause a copy of the verified complaint that has been filed under the provisions of this part to be served upon or mailed to the owner alleged to have committed the violation complained of.

35738. If the commission finds that a respondent has engaged in any unlawful practice as defined in this part, the commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such practice and to take one of the following affirmative actions, as, in the judgment of the commission, will effectuate the purpose of this part:

(1) The sale or rental of the housing accommodation to the aggrieved person, if it is still available.

(2) The sale or rental of a like accommodation, if one is available, or the next vacancy in a like accommodation.

(3) The payment of damages to the aggrieved person in an amount not to exceed five hundred dollars (\$500), if the commission determines that neither of the remedies under (1) or (2) is available.

The commission may require a report of the manner of compliance.

If the commission finds that a respondent has not engaged in any practice which constitutes a violation of this part, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said accusation as to such respondent. A copy of its order shall be delivered in all cases to the Attorney General and such other public officers as the commission deems proper.

Any order issued by the commission shall have printed on its face references to the provisions of the Administrative Procedure Act which prescribe the rights of appeal of any party to the proceeding to whose position the order is adverse.

CHAPTER 5. MISCELLANEOUS

35740. Nothing contained in this part shall be deemed to repeal any of the provisions of any other law of this State relating to discrimination because of race, color, religion, national origin or ancestry.

35741. Nothing in this part shall be construed to affect the title or other interest of a person who purchases, leases, or takes an encumbrance on a housing accommodation in good faith and without knowledge that the owner or lessor of the property has violated any provision of this part.

35742. Nothing contained in this part shall be construed to prohibit selection based upon factors other than race, color, religion, national origin, or ancestry.

35743. As it is the intention of the Legislature to occupy the whole field of regulation encompassed by the provisions of this part, the regulation by law of discrimination in housing contained in this part shall be exclusive of all other laws banning discrimination in housing by any city, city and county, county, or other political subdivision of the State. Nothing contained in this part shall be construed to, in any manner or way, limit or restrict the application of Section 51 of the Civil Code.

35744. The provisions of this part shall be liberally construed for the purpose of effectuating the public policy contained herein.

SEC. 3. Section 1414 of the Labor Code is amended to read:

1414. There is in the Division of Fair Employment Practices the State Fair Employment Practice Commission. Such commission shall consist of seven members, to be known as commissioners, who shall be appointed by the Governor, by and with the advice and consent of the Senate, and one of whom shall be designated as chairman by the Governor. The term of office of each member of the commission shall be for four years; provided, however, that of the commissioners first appointed two shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years. The term of office of each member of the commission appointed pursuant to the 1963 amendments to this section shall also be for four years; provided, however, that of the two commissioners first appointed pursuant to the said amendments, one shall be appointed for a term which shall expire September 18, 1966, and one for a term which shall expire September 18, 1967.

SEC. 4. Section 1419.5 is added to the Labor Code, to read:

1419.5. The commission is empowered to prevent discrimination in housing as provided in Part 5 (commencing with Section 35700) of Division 24 of the Health and Safety Code.

SEC. 5. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

o

L-3520 8-68 1M